APPENDIX

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4712

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

versus

INTISAR KHALIF FARAH, a/k/a Intisar Ali,
Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonard D. Wexler, Senior District Judge, sitting by designation. (1:05-cr-00163-LDW).

Argued: May 25, 2007
Decided: August 14, 2007

Before WILKINSON, NIEMEYER, and GREGORY, Circuit Judges.

Affirmed by unpublished opinion. Judge Gregory wrote the opinion, in which Judge Wilkinson and Judge Niemeyer joined.

ARGUED: Melinda Laverne VanLowe, GREENSPUN, DAVIS & LEARY, P.C., Fairfax, Virginia, for Appellant. Jeanine Lineham, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee. ON BRIEF: Peter D. Greenspun, GREENSPUN, DAVIS & LEARY, P.C., Fairfax, Virginia, for Appellant. Chuck Rosenberg, United States Attorney, Edmund Power, Assistant United States Attorney, Aaron M. Zebley, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

GREGORY, Circuit Judge:
Intisar Khalif Farah appeals her conviction for procuring naturalization unlawfully in violation of 18 U.S.C. § 1425(a). She assigns error to several of the district court's evidentiary rulings and rulings on her pre-trial and post-trial motions. For the reasons set forth below, we affirm.

I.

Farah, a native of Somalia, entered the United States for the first time on January 10, 1983, as a non-immigrant with a student visa. In May 1984, the

Immigration and Naturalization Service ("INS") denied her application for an extension of stay and ordered her to depart the United States by July 13, 1984. Farah left for Mogadishu, Somalia, on July 10, 1984 and, later that summer, became engaged to marry Yusef Abdi Ali. At some point thereafter, Farah re-entered the United States, moving to Cape Giradeau, Missouri, in 1985 and to Alexandria, Virginia, in 1988.

On February 27, 1989, Farah applied for asylum. She stated in her application that January 11, 1983, was the date of her last arrival in the United States. She also stated that she and her family were members of the Isaaq clan and, as a result of that membership, she had been arrested three times, imprisoned, and tortured in Somalia. Her application was successful, and in December 1990, a year after receiving asylum, Farah applied for and was granted lawful permanent resident status as an asylee eligible for adjustment.

On December 21, 1990, Farah requested refugee status in Canada, where her husband believed it would be easier for him to obtain asylum. In making her request, Farah claimed that she feared persecution in Somalia because she was "Isaac [sic] [and] the government kills all of our people." J.A. 1871. Farah claimed that she was arrested and imprisoned in Somalia in August 1989, fled Somalia in November 1990, and spent one month illegally in the United States en route to Canada. Farah further claimed that she was in Ethiopia from June 1988 to August 1989. Farah denied on two separate Canadian applications that she had ever applied for refugee status in any other country.

In June 1991, Farah appeared before the Canadian Immigration and Refugee Board and testified that she was Isaaq, that she was arrested in Somalia in May 1988 for participating in a protest against then-President Siad Barre, and that she went to Ethiopia after being released from prison but, upon her return to Mogadishu in August 1989, was arrested with other Isaaqs for being Isaaq. Farah testified that her boyfriend procured her release from prison and that she fled Somalia a year later for Canada, stopping first in the United States to meet her boyfriend. The Canadian government denied Farah's refugee application and ordered her to depart Canada by October 13, 1992. Farah returned to the United States. In July 1993, Farah's parents and siblings were admitted to the United States as refugees because Farah's father, a member of the Darod clan in Somalia, had been singled out for persecution as a high-ranking member of the former Somali government.

On April 20, 1995, Farah became a United States citizen. She swore in her application for citizenship, and again during her interview with the INS, that her only absence from the United States since becoming a permanent resident was a visit to Canada from August 1991 to November 1991. Farah stated that she was living in Virginia and working in the District of Columbia from 1990 to 1992.

In December 1996, Farah sponsored her husband's admission to the United States and, in March 1998, Farah submitted a declaration to the Executive Office of Immigration Review on behalf of her husband. In that declaration, Farah provided details of her

background which were inconsistent with the details she provided in her applications for asylum, adjustment of status, and naturalization. Investigation into the affairs of Farah's husband provoked scrutiny of Farah's immigration file and, in December 1998, an INS official authored an internal memorandum identifying what the official considered false statements by Farah that were sufficient to denaturalize her.

On April 19, 2005, a grand jury indicted Farah for naturalization fraud. Farah filed a motion to dismiss for failure to return the indictment within the statute of limitations; the motion was denied after a hearing. In August 2005, in response to a court order, the Government filed a bill of particulars enumerating the allegedly materially false statements Farah made in her applications for asylum, lawful permanent residence, and naturalization. Farah then filed a renewed motion to dismiss for failure to return the indictment within the statute of limitations, a motion to dismiss for prejudicial pre-indictment delay and vindictive prosecution, and several motions in limine. After a hearing, the district court denied the motion to dismiss for prejudicial pre-indictment delay, stating that it would determine the issue during trial. The court reserved its decision on the motion regarding the statute of limitations and the motions in limine.

At trial in November 2005, the Government presented documents from the INS, including a copy of Farah's 1984 plane ticket from the United States to Somalia, establishing that Farah left the United States for Mogadishu around July 1984 and returned

to the United States sometime thereafter. Additionally, the Government showed that Farah's declaration on behalf of her husband states that she is a member of the Darod clan although she based her claim for asylum on her membership in the Isaaq clan. Accordingly, the Government presented evidence confirming that Farah and her immediate family are Darod, not Isaaq. At the time Farah applied for asylum, the Department of State considered members of the Isaaq clan to have a well-founded fear of persecution by Barre's regime and, consequently, a basis for being granted asylum in the United States. The Government therefore argued at trial that Farah knew a claim to have suffered mistreatment because she was Isaaq heightened her chances of being granted asylum. Also at trial, an INS officer testified that knowledge of Farah's false statements about her clan membership and her date of last entry into the United States would have resulted in the denial of her asylum application. Likewise, INS testimony established that if Farah had been truthful about living in Canada for approximately twenty-two months, rather than merely visiting Canada for three months, her extended absence from the United States would have rendered her ineligible to become a naturalized citizen. INS's knowledge that Farah obtained her lawful permanent resident status through fraud would have had the same consequence. An INS officer similarly testified that committing any fraud, generally, would have rendered Farah ineligible for adjustment of status.

The November 2005 trial ended in a hung jury. After a hearing conducted before the new trial, the district

court denied Farah's renewed motion to dismiss for failure to return the indictment within the statute of limitations and reserved its decision on her motion to exclude the testimony of several Government witnesses. A second trial in March 2006 ended with a verdict of guilty. The district court then denied all outstanding motions, including a motion by Farah for judgment of acquittal, and sentenced Farah to one month of incarceration and one year of supervised release. This appeal followed.

II.

Statute of Limitations

The district court denied Farah's renewed motion to dismiss for failure to return an indictment within the statute of limitations, finding that the indictment, dated April 19, 2005, was returned within ten years of the date Farah was naturalized, April 20, 1995. This Court reviews timely objections to an indictment de novo. United States v. Darby, 37 F.3d 1059, 1062-63 (4th Cir. 1994).

Farah does not dispute that the offense charged in the indictment, procuring naturalization unlawfully in violation of 18 U.S.C. § 1425(a), has a ten-year statute of limitations or that the one-day window the Government left itself in charging her is sufficient. Rather, Farah argues that the rule of lenity requires that the five-year statute of limitations for the offense of making a false statement in an immigration matter in violation of 18 U.S.C. § 1015 be applied to her case because the Government could have prosecuted her under that statute instead of under § 1425(a).

The rule of lenity provides that "ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." United States v. Bass, 404 U.S. 336, 348 (1971). Farah submits that the ambiguity in her case arises in Congress's failure to explain the disparity between the statute of limitation for § 1425(a) and that for § 1015. The rule of lenity, however, "serves as an aid for resolving an ambiguity; it is not to be used to beget one." Callanan v. United States, 364 U.S. 587, 596 (1961). Here, there is no ambiguity regarding the single statutory offense with which Farah is charged--violation of § 1425(a)--and the statute of limitations for that offense. See United States v. Helem, 186 F.3d 449, 455 (4th Cir. 1999) (stating that rule does not apply where statute is not ambiguous). For this reason, Farah's reliance on United States v. Head, 641 F.2d 174 (4th Cir. 1981), is misplaced. In Head, this Court applied the rule of lenity when a single conspiracy count charged the defendant with conspiracy to commit several different offenses with different statutes of limitations. Here, by contrast, there is no confusion among applicable offenses (only one is charged in the indictment) or applicable statutes of limitations (only one applies to the offense charged). The district court properly denied Farah's motion to dismiss.

The 1998 INS Memorandum

The district court denied Farah's request for production of the 1998 INS memorandum detailing the author's belief that Farah made false statements on immigration applications and that there were grounds to denaturalize her in an administrative proceeding. The Government had notified Farah that

it would not produce the memorandum because the INS had marked it as confidential attorney work product, and had provided the court a copy of the memorandum for in camera inspection only. We review a district court's denial of discovery requests for abuse of discretion. United States v. Fowler, 932 F.2d 306, 311 (4th Cir. 1991).

As a rule, and pursuant to a discovery order entered in this case, any defendant may inspect items in the Government's possession that are "material to preparing the defense." Fed. R. Crim. P. 16(a)(1)(E)(i). "A showing of materiality must include 'some indication that the pretrial disclosure of the disputed evidence would have enabled the defendant significantly to alter the quantum of proof in his favor.'" United States v. Kirk, 877 F.2d 61, 1989 WL 64139, at *2 (4th Cir. 1989) (unpublished) (quoting United States v. Ross, 511 F.2d 757, 762-63 (5th Cir. 1975), cert denied, 423 U.S. 836 (1975)).

Farah argues that, in denying her request for production, the district court improperly focused on whether the Government was going to use the memorandum at trial (the Government said that it would not) and improperly relieved the Government of its burden to show that the memorandum actually constituted attorney work product. Cf. In re Grand Jury Proceedings, 102 F.3d 748, 750 (4th Cir. 1996) ("The work-product privilege protects the work done by an attorney in anticipation of litigation."). Farah also argues that the memorandum was relevant to her motion to dismiss the indictment for prejudicial pre-indictment delay and her ability to identify potential trial witnesses. By the time the court heard

arguments on Farah's request for production, however, the Government had filed not only a bill of particulars but also more than one thousand pages of discovery in advance of both trials. Cf. Ross, 511 F.2d at 763 (stating that the "extensiveness of the material which the Government did produce and the availability of the disputed material from other sources, including the defendant's own knowledge, must also be considered" in determining materiality); United States v. Automated Med. Labs., Inc., 770 F.2d 399, 406 (4th Cir. 1985) (stating that the purpose a of bill of particulars "is to fairly apprise the defendant of the charges against him so that he may adequately prepare a defense and avoid surprise at trial"). Given this evidence, it is not clear that the memorandum would have significantly altered the quantum of proof in Farah's favor. Because Farah cannot make the requisite showing, and because the Government did not intend to use the memorandum at trial and the memorandum is, on its face, attorney work product, the district court did not abuse its substantial discretion to manage the discovery process by denying Farah's request.

Prejudicial Pre-Indictment Delay

The district court denied Farah's motion to dismiss the indictment for prejudicial pre-indictment delay, in which Farah asserted that the Government's delay of up to seventeen years[1] * in indicting her deprived her of testimonial and documentary evidence

[1] Farah's repeated reference to a delay of ten-to-seventeen years is simply incredible, as any number over ten amounts to a claim that the Government failed to indict her even before the date she committed the charged offense, April 20, 1995.

necessary to her defense. We review timely objections to an indictment de novo. Darby, 37 F.3d at 1062-63.

The Fifth Amendment's Due Process Clause requires dismissal of an indictment when a defendant establishes actual prejudice resulting from the Government's delay, and, after balancing the defendant's prejudice against the Government's justification for the delay, we find that "the [G]overnment's action in prosecuting after substantial delay violates 'fundamental conceptions of justice' or 'the community's sense of fair play and decency.'" Jones v. Angelone, 94 F.3d 900, 904 (4th Cir. 1996) (citation omitted). Two of Farah's examples of actual prejudice lack merit. First, Farah claims that her father, who died in 1996, could have offered credible, exculpatory testimony about Farah's clan identification. But Farah's father died two years before 1998, the year she argues she should have been indicted because the INS memorandum emerged that year. Even by Farah's timeline, her father never would have been available to testify. Second, Farah asserts that her conviction will have drastic immigration consequences for her family. But had Farah been indicted at precisely the same moment, yet acquitted, her family would suffer no immigration consequences. Thus, Farah's conviction is problematic for her family, not her delayed indictment.

Farah's other examples of actual prejudice have merit. First, Farah asserts that the delay made it difficult for her to verify that she was living and working in the United States and not Canada in 1991 and 1992--a major trial issue. Farah could not locate leases and bank records that could confirm her

residence approximately fifteen years ago, and, in the last ten years, her former employer's business dissolved. Both her former employer and his accountant destroyed the records that could have verified her employment during 1991 and 1992, and her former employer could not independently recall her dates of employment. Second, Farah asserts that the delay made it difficult to unearth evidence that could support statements she made on her asylum application--also a major trial issue. Two of the immigration officials who testified at trial about Farah's 1989 asylum application could not remember Farah, and her former immigration lawyer destroyed her asylum file.

These latter claims of prejudice are sincere, but describe problems--faded memories, lost evidence--that attend every case brought just barely within the statute of limitations. Cf. United States v. Marion, 404 U.S. 307, 326 (1971) (observing "the real possibility of prejudice inherent in any extended delay: that memories will dim, witnesses become inaccessible, and evidence be lost"). Nonetheless, we assume Farah has shown actual prejudice, and balance that prejudice against the Government's justification for its delay.

The Government, arguing that there was no delay, correctly notes that, although Farah maintains that the Government knew of her offenses in 1998 and should have indicted her then, the document on which she relies is an internal communication between attorneys at an agency with no authority to prosecute Farah. See 28 U.S.C. §§ 547(1),(2). The U.S. Attorney's Office, the only prosecuting authority for

Farah's crime, first learned of Farah's crime in September 2004, just seven months before the indictment. Farah does not dispute this fact or argue that seven months constitutes an unreasonable delay. Nor, we note, does Farah allege nefarious motives on the Government's part. See also Automated Med. Labs., 770 F.2d at 404 (considering it relevant, in declining to find a due process violation, that "there is no indication that the Government intentionally delayed to gain some tactical advantage").

Having balanced the Government's position regarding its alleged delay against Farah's quite ordinary claims of prejudice, we cannot say that her indictment offends "fundamental conceptions" of justice, fair play, or decency. Jones, 94 F.3d at 904. We affirm the denial of Farah's motion to dismiss for prejudicial pre-indictment delay.

Exhibits 1-1 through 1-21

Exhibits 1-1 through 1-21 are documents from Farah's immigration file, including her applications for asylum, lawful permanent residence, and naturalization, her green card and naturalization certificate, and communications sent to Farah by the INS. Farah argues that the documents should have been excluded from evidence for a variety of reasons. We review the district court's evidentiary rulings for abuse of discretion. Gen. Elec. Co. v. Joiner, 522 U.S. 136, 141 (1997).

Farah's myriad protests fail. The documents were kept in the course of regularly conducted business at the INS and are therefore admissible as business records. Fed. R. Evid. 803(6). Testimony established (and Farah's appellate brief admits) that Farah

herself either inscribed directly or supplied indirectly much of the information in the documents, therefore many of the statements within the documents are admissible as party admissions. Fed. R. Evid. 801(d)(2)(A). Finally, even if the stray markings by INS officials on the applications were nonverbal conduct intended as assertions and therefore "statements" under the Rules of Evidence, see Fed. R. Evid. 801(a), as Farah asserts, they fall within the business records exception to hearsay based on the testimony of two Government witnesses about the markings. In sum, the district court did not abuse its discretion in admitting Exhibits 1-1 through 1-21.

Exhibits 7-1 through 7-9

The district court also did not abuse its discretion in admitting into evidence Exhibits 7-1 through 7-9, documents from Farah's Canadian immigration file. Farah argues that (1) the exhibits do not qualify as business records, and that (2) the Government impermissibly offered these exhibits to prove Farah's bad character (i.e., dishonest) or bad acts committed in conformity with her character (i.e., making false statements to immigration officials in the United States).

In challenging the admission of her Canadian immigration file as a business record, Farah raises many of the same, unavailing arguments she raised in challenging the admission of her INS immigration file. Her additional argument that the Canadian file is incomplete, preventing the court and the parties from knowing whether critical information that would place the exhibits in a different light, lacks merit: whether the file qualifies as a business record

does not depend on whether it includes every potentially relevant document. Her argument that the file contains an opinion and order issued by the Canadian Immigration and Refugee Board when, under Nipper v. Snipes, 7 F.3d 415 (4th Cir. 1993), court orders do not fall within the business records exception to the hearsay rule, is misplaced. Nipper actually holds that judicial findings of fact are not "public records" within the meaning of the public records exception to hearsay found in Federal Rule of Evidence 803(8)(C). 7 F.3d at 417. Neither party to this appeal invokes 803(8)(C) and, because the factual findings in the opinion and order were redacted, none remain about which to complain.

Farah's classification of Exhibits 7-1 through 7-9 as character evidence also fails. Under Rule 404(b) of the Federal Rules of Evidence, evidence of other crimes or wrongs "are admissible if they are (1) relevant to an issue other than character, (2) necessary, and (3) reliable." United States v. Rawle, 845 F.2d 1244, 1247 (4th Cir. 1988). Here, the Government introduced the Canadian immigration documents as circumstantial evidence that Farah lived in Canada in 1991 and 1992, and as evidence that Farah falsely stated on her application for naturalization in the United States that she had stayed in Canada for less than six months. Where, as here, evidence "is admitted as to acts intrinsic to the crime charged, and is not admitted solely to demonstrate bad character, it is admissible." United States v. Chin, 83 F.3d 83, 88 (4th Cir. 1996). Even if, as Farah additionally claims, the Government referenced the exhibits in remarking on Farah's character during its closing argument, we cannot say

that the district court abused its discretion in admitting Exhibits 7-1 through 7-9 as business records.

Exhibits 2-1 through 2-6

The district court did not abuse its discretion in admitting Exhibits 2-1 through 2-6, documents from the immigration file of Farah's father. The court admitted the documents under Federal Rule of Evidence 803(6), the business records exception to hearsay, and Rule 804(b)(4), the exception for statements of an unavailable declarant concerning the declarant's or a relative's personal or family history. Under the latter rule, because Mr. Farah was unavailable at trial (he was deceased), his statements concerning his and his family's clan membership are excepted from the hearsay rule. Farah's assertion that clan membership in Somalia is not as straightforward and mechanical as facts concerning dates of birth, marriage, and the like allowed under Rule 804(b)(4) is not sufficient to disturb the district court's decision to admit Mr. Farah's statements under the rule.

Farah's final argument that the admission of Mr. Farah's file violates her rights under the Confrontation Clause is also unavailing. The Confrontation Clause bars the "admission of testimonial statements of a witness who did not appear at trial unless he was unavailable to testify, and the defendant had a prior opportunity for cross-examination." Crawford v. Washington, 541 U.S. 36, 53-54 (2004). Mr. Farah's statements were not testimonial because the "primary purpose" (any future purpose is irrelevant) of Mr. Farah's

interrogation, liberally assuming his immigration interviews can even be called that, was not "to establish or prove past events potentially relevant to later criminal prosecution." Davis v. Washington, 126 S. Ct. 2266, 2274 (2006). The primary purpose was to determine Mr. Farah's eligibility for an immigration benefit. Our highly deferential standard of review leads us to affirm the district court's decision here as well.

Authentication of Exhibits in Groups 1 and 2

Farah asserts that Exhibits 1-1 through 1-21 and 2-1 through 2-6, documents from her and her father's immigration files were not properly authenticated because, according to Farah, the Government alleged only that she and her father signed the documents. The Government argues that for purposes of authentication, the documents were public records under Federal Rule of Evidence 901(b)(7) and did not require handwriting authentication. We review decisions of the district court regarding authentication for abuse of discretion. United States v. Patterson, 277 F.3d 709, 713 (4th Cir).

The parties agree that, under Rule 901(a), the "requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what the proponent claims." Fed. R. Evid. 901(a). "To meet the threshold established by Rule 901(a), the party seeking to introduce physical evidence must provide a basis for the jury to resolve the authenticity question in favor of that party." Patterson, 277 F.3d at 713 (quotation marks omitted). Rule 901(b)(1) provides that a

witness with knowledge may authenticate a piece of evidence by testifying that a matter is what it is claimed to be. A party need not rely on "nonexpert opinion as to the genuineness of handwriting" to authenticate or identify a document, so long as another method of conforming with Rule 901(a) is used.

Here, the INS record custodian had knowledge of documents kept by the INS and testified that the documents in the Farahs' files are what the Government claims. Cf. United States v. Hernandez-Herrera, 952 F.2d 342, 344 (10th Cir. 1991) ("We find that the testimony of Wheeler, an INS agent familiar with the record keeping practices of the INS regarding Exhibits 1-4, establishes the authenticity of these exhibits under Rule 901(b)(7)."). Further, contrary to what Hernandez-Herrera suggests, it is not necessary for the Government to invoke Rule 901(b)(7) for authentication; testimony pursuant to Rule 901(b)(1) sufficed.

The Expert Testimony of Dr. Lee Cassinelli

The Government called Dr. Lee Cassinelli, a researcher of Somali culture, to establish that clan identity in Somalia is patrilineal and to elicit his opinion that, based on her father's clan identity, Farah is Darod, not Isaaq. Farah argues that Dr. Cassinelli's testimony should have been excluded under Federal Rule of Evidence 702 because it was not reliable (he did not interview Farah, her family, or her friends), it did not aid the jury in determining a fact in issue (what Farah phrases as her belief about her clan identity), and it was generally more prejudicial than probative. We review the district

court's decisions regarding the admission of expert testimony for abuse of discretion. United States v. Mohr, 318 F.3d 613, 622 (4th Cir. 2003).

"Unlike an ordinary witness, see Rule 701, an expert is permitted wide latitude to offer opinions, including those that are not based on firsthand knowledge or observation." Daubert v. Merrell Dow Pharma., Inc., 509 U.S. 579, 592 (1993). Dr. Cassinelli, therefore, did not need personal knowledge of Farah's clan identity or a personal interview with Farah to opine about her clan identity. His testimony about Somali clan structure was relevant, a fact Farah concedes, and Farah had the opportunity on cross-examination to show the jury that, although Dr. Cassinelli believed he knew what clan Farah belongs to, there would be no way for him to know what clan she believes she belongs to. Accordingly, the district court did not abuse its discretion in admitting Dr. Cassinelli's expert testimony.

The Expert Testimony of Mary von Briesen, et al.

Farah argues that the district court improperly allowed Mary von Briesen, Edward Newman, Michael Comfort, and Stanford Knight, all lay witnesses, to offer what amounted to expert testimony about the asylum, lawful permanent residence, or naturalization process. We review for abuse of discretion. United States v. Hassouneh, 199 F.3d 175, 182 (4th Cir. 2000).

Federal Rule of Evidence 701 provides that a lay witness may express opinions that are "(a) rationally based on the perception of the witness, (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and not based on

scientific, technical, or other specialized knowledge within the scope of Rule 702 [on testimony by expert witnesses]." The rule "permits lay witnesses to offer an opinion on the basis of relevant historical or narrative facts that the witness has perceived." Certain Underwriters at Lloyd's, London v. Sinkovich, 232 F.3d 200, 203 (4th Cir. 2000) (quotation marks and citations omitted).

Newman, Comfort, and Knight, former INS immigration examiners, and von Briesen, an officer at the Department of State, explained the requirements for obtaining asylum, lawful permanent resident status, or naturalization, and the applicant's duty to be truthful. The four witnesses expressed opinions based on relevant facts that they perceived in completing departmental functions. Their opinions about the consequences for an applicant who makes an untruthful statement on an application were based on firsthand knowledge of department protocol that is not overly technical or particularly specialized in nature. In addition, although the Government conceded that Comfort could be certified as an expert and that "it [was] certainly sufficient for someone with this man's amount of experience to say this is how they were trained, this is our procedure, this is the law, and this is why the statements are material," we cannot say that the district court abused its discretion in allowing Comfort, any more than it did von Briesen, Newman, and Knight, to testify as a lay witness rather than as an expert witness. J.A. 1252-53.

Farah additionally observes that Newman and Comfort did not process any of her immigration

papers or interview her in conjunction with any of her immigration applications, and Knight reviewed her application but testified that he could not recall any details about his review. Accordingly, Farah argues, their testimony as to what information is material in determining whether an immigration application should be granted was mere speculation as to the information that was actually material to the immigration officers who did review her applications and, therefore, their testimony was irrelevant and inadmissible. See Fed. R. Evid. 402. For the reasons just stated, we find this argument, too, unavailing. The district court did not abuse its discretion in allowing the testimony of von Briesen, Comfort, Newman, and Knight.

Motion for Judgment of Acquittal

After the jury returned a guilty verdict, Farah unsuccessfully moved for judgment of acquittal. She argued that the Government presented several witnesses who lacked personal knowledge about her applications for asylum and naturalization, that it presented insufficient evidence to prove that she was not in the United States from January 1991 until October 1992, and that it never offered evidence about Farah's personal understanding of her clan identity or evidence to prove that Farah was not persecuted as she described. We review de novo a district court's denial of a motion for judgment of acquittal. United States v. Smith, 451 F.3d 209, 216 (4th Cir. 2006). We must "sustain a guilty verdict if, viewing the evidence in the light most favorable to the prosecution, the verdict is supported by 'substantial evidence.'" Id. (citation omitted). Substantial evidence is "evidence that a reasonable

finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." Id. (citation omitted).

Viewing the evidence in the light most favorable to the Government, substantial evidence--much of it catalogued earlier in this opinion--supports the jury's guilty verdict. The Government's case was not without its weaknesses, but the "jury, not the reviewing court," fills in the holes as it elects by "weigh[ing] the credibility of the evidence and resolv[ing] any conflicts in the evidence presented." Id. at 217 (citation omitted). Moreover, even Farah concedes that she has provided "inconsistent statements" on her immigrations applications and the question is simply whether her statements were knowingly false as opposed to something more benign. We sustain the district court's refusal to enter a judgment of acquittal.

Motion for a Mistrial

Finally, Farah argues that two statements made by the Government during closing arguments required the district court to grant her motion for a mistrial. Because the "denial of a defendant's motion for a mistrial is within the sound discretion of the district court," we will disturb such a denial "only under the most extraordinary of circumstances." United States v. Dorlouis, 107 F.3d 248, 257 (4th Cir. 1997).

Farah first highlights the Government's remark that defense counsel had not offered a defense to Farah's alleged false statements and, instead, had merely "attack[ed] the government for taking the time" to investigate and indict Farah. J.A. 1725. Farah contends that this statement required a curative

instruction, which the district court declined to give, because it improperly suggested to the jury that Farah had a burden to present a defense. Second, the Government surmised to the jury that if it had indicted Farah any earlier, she would have argued that the Government "rushed judgment." J.A. 1727. Farah contends that this statement led the jury to believe that the Government had been investigating her since the date of her crime, a suggestion she could not rebut because she could not use the 1998 INS memorandum at trial.

Our test to determine whether alleged incidents of prosecutorial misconduct warrant reversal asks first, whether the prosecutor's remarks or conduct was improper, and second, whether such remarks or conduct prejudicially "affected the defendant's substantial rights so as to deprive [her] of a fair trial." United States v. Stockton, 349 F.3d 755, 762 (4th Cir. 2003) (citation omitted). Under this test, the Government's statements, taken as a whole, were merely argumentative--in the fashion of closing arguments--and therefore not improper. Further, the statements did not deprive Farah of a fair trial because the district court adequately instructed the jury that the burden of proof remained with the Government and that closing arguments are not evidence. On these facts, no mistrial was warranted.

III.

For the foregoing reasons, we affirm the rulings of the district court.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
September 11, 2007

No. 06-4712
1:05-cr-00163-LDW

UNITED STATES OF AMERICA
Plaintiff - Appellee
v.
INTISAR KHALIF FARAH, a/k/a Intisar Ali,
Defendant - Appellant

On Petition for Rehearing and Rehearing En Banc

The appellant's petition for rehearing and rehearing en banc was submitted to this Court. As no member of this Court or the panel requested a poll on the petition for rehearing en banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and rehearing en banc is denied.

Entered for a panel composed of Judge Wilkinson, Judge Niemeyer, and Judge Gregory.

For this Court,
/s/ Patricia S. Connor
CLERK

UNITED STATES CATHOLIC CONFERENCE

Received by JOINT VOLUNTA... AGENCY
DATE: 9 DEC 1992
INITIAL:

DIOCESE OF

MIGRATION AND REFUGEE SERVICES
DIOCESE OF ARLINGTON
9158 WAKEFIELD STREET
~~ARLINGTON, VA 22204~~

AFFIDAVIT OF RELATIONSHIP

SECTION I:

Date filed: Nov 23, 1992

I am filing this Affidavit for the following person(s) located in Nairobi, Kenya (Country of asylum overseas)

Date of arrival in that country: Jan 01/91

NAME AND A/K/A (underline family name)	SEX	PLACE/DATE OF BIRTH (If Known)	RELATION TO YOU	PRESENT LOCATION OR ADDRESS
Khalif H Farah	M	Burao Nov 30/1930	Father	Nairobi, Kenya
Hawa Ali Ahmed	F	Burao May 2/1941	Mother	" "
Amina Khalif Farah	F	Mogadishu Oct 1/1960	Sister	" "
Abdiwasir Khalif Farah	M	" " Feb 2/1964	Brother	" "
Abd Khalim Khalif Farah	M	" " April 17/1970	Brother	" "
Hodo Sapir Khalif Farah	M	" " March 9/1973	Brother	" "
Abd Halim Khalif Farah	M	" " Jan 20/1976	Brother	" "
Ashucad Khalif Farah	F	" " July 12/1976	Sister	" "
Muna Khalif Farah	F	" " April 5/1981	Sister	" "
Abdiladif Khalif Farah	M	" " April 11/1982	Brother	" "
Mohamed Khalif Farah	M	" " Jan 2/1985	Brother	" "
Mahamud Khalif Farah	M	" " July 20/1988	Brother	" "
Mahad Khalif Farah	M	" " Jan 11/1989	Brother	" "

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SECTION II:

Your name Intisar Khalif Farah

(and A/K/A)

Alien Number (if applicable) A022740176

Date of birth July 23/1961 Sex F

Place of birth (Include Country) Hargeysa, Somalia

Current address 4652 Elan Ct
Annandale, VA
22003

Phone Number (home) 703-256-3507
(work)

Your U.S. Immigration Status (Check one):

( ) U.S. Citizen Certificate #
(X) Permanent Resident
( ) Refugee
( ) Asylee
( ) Other (Please Explain):

Your Original Case Number:

Country of first asylum USA

Date you arrived in the U.S. Jan 1983

Your Social Security Number 497-86-6674

Agency through which you came to the United States

I have filed an I-130 (Immigrant Visa Petition) for each of my relative(s) prior to submitting this affidavit _ Yes _ No. If yes, date submitted:
and date approved:

YOU MUST INCLUDE A COPY OF BOTH SIDES OF YOUR I-94 OR YOUR PERMANENT RESIDENT ALIEN CARD (I-151, I-551, GREEN CARD). WITHOUT THESE DOCUMENTS, YOUR AFFIDAVIT IS NOT VALID.

The purpose of this Affidavit is to verify your relationship to refugees overseas. Failure to provide complete and accurate information may impede the admission of requested refugees to the U.S. If the information is unknown to you, indicate "unknown". If anyone uses an alias, provide it. If anyone is deceased or their present location is unknown, please indicate. Be sure to include all relatives as specified, anywhere in the world, living, deceased or missing. Use the space marked "Additons/Explanations" to explain any unusual relationships including adopted, half, or step relatives.

(Revised 10/86)

GOVERNMENT EXHIBIT 2-1 1:05CR163

BEST AVAILABLE COPY

SECTION III:

	NAME AND A/K/A	PLACE/DATE OF BIRTH (If Known)	PRESENT LOCATION/ ADDRESS (If Known)
Your father	Khalif H Farah	Burao, Nov. 30/1930	Nairobi, Kenya
Your mother	Hawo Ali Ahmed	Burao, May 2/1942	" "
Step-father			
Step-mother			
Spouse	Yusuf ABD: Ali		USA

Date(s) Place(s) of Marriage(s) and/or Divorce(s)
Nov 20/1992 Fairfax, VA.

SECTION IV:
List ALL your Children (living, deceased or missing:blood,step,half or adopted)

NAME and A/K/A	SEX	PLACE/DATE OF BIRTH (If Known)	PRESENT LOCATION/ ADDRESS (If Known

SECTION V:
List ALL your Brothers and Sisters(living,deceased or missing; blood, step, half or adopted)

NAME and A/K/A	SEX	PLACE/DATE OF BIRTH (If Known)	PRESENT LOCATION/ ADDRESS (If Known)
Asha Khalif Farah	F	Mogadish, Oct 01/1966	
Abdinasir Khalif Farah	M	" ——— " Feb 01/1964	
Abdi Khaleq Khalif Farah	M	" ——— " April 12/1970	Nairobi
Abdi Qafar Khalif Farah	M	" ——— " March 3/1973	
Abdi Hakim Khalif Farah	M	" ——— " Jun 25/1976	Nairobi
Mahmoud Khalif Farah	M	" ——— " July 12/1978	
Hawa Khalif Farah	F	" ——— " April 5/1983	
Abdifatah Khalif Farah	M	" ——— " April 11/1984	
Mohamed Khalif Farah	M	" ——— " Jun 2/1985	
Mahamud Khalif Farah	M	" ——— " July 29/1988	
Mahad Khalif Farah	M	" ——— " Jun 11/1989	

SECTION VII: NOTARIZED SIGNATURE OF APPLICANT
I swear that the information in this statement is true to the best of my knowledge, and understant that any false statement could jeopardize my immigration status in the United States.

Ivanisse Farah

Subscribed and sworn to me this
23rd day of November 1992

Stamp or Seal of Notary

Signature of Notary Public
My commission expires: Feb 28, 1994

SECTION VIII: AGENCY REPRESENTATIVE WHO ASSISTED IN PREPARING THIS AFFIDAVIT

Print Name Legibly

Signature

REGISTRATION FOR CLASSIFICATION AS REFUGEE Section 207 Immigration and Nationality Act

Form Approved Budget Bureau No. 43-R0400

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

File No. A70-417-425

REGISTRANT TO FURNISH THE FOLLOWING INFORMATION (READ INSTRUCTIONS ON REVERSE)

TYPE OR PRINT

1. My name is: First: KHALIF Middle: HAGI Last: FARAH

2. My present address is: KAMBACK ESTATE, NAIROBI, KENYA.

3. I was born on (Month/Day/Year): NOV. 30. 1930 Place of birth (City or Town): BURAO (Province): TOGDHERE (County): SOMALIA My present nationality is: SOMALI

4. Height: 179cm Weight: 68Kg Race: BLACK Hair: GRAY Complexion: BROWN Marks or Scars: WOUND MARKS ON LEFT LEG

5. I left or was displaced from (Name of country): I fled SOMALIA On or about (Month): 12-3 (Day): 3/12 (Year): 1991

6. Reasons: (State in detail) AFTER CONSTANT HARASSMENT, LOOTING OF PROPERTY, ATTACKS WITH ASSAULT RIFLES, DEMOLISHING OF MY HOUSES WITH RUSSIAN ROCKETS KILLING ARE MY BROTHER AND DISABLING MY LEAN AND INJURING ME WITH BULLET WOUNDS SERIOUSLY ON MY LEFT LEG. ASSYCLUM SEEKER

7. My present immigration status is: (Country in which residing) IN KENEYA DOA: 6 Jan 3/91

The evidence of my immigration status in the country in which I am residing is: 'INTER RESETTLEMENT REGISTRATION FORM' DATED ARR 1988 Nairobi Somalia NAIROBI 87/288 BY M. OF HAFFAIRS

8. My spouse's name is: HAWA ALI AHMED

9. (If divorced) present address is: STAYING WITH ME

10. Spouse's nationality is: SOMALI

11. My spouse ☒ will ☐ will not accompany me to the United States.

12. Name of child(ren)	Date of birth	Place of birth		Present address
FANISA KHALIF	1968	METEISHA	X	STAY WITH US
ABI: NASIF KHALIF	1964	—	X	
ABDI KHALIF	1970	—	X	
HIRSI GAGAB	1975	—	X	
ABDI HALIM	1978	—	X	

If you mark (X) in front of name of each child who will accompany you to the United States.

13. Schooling or Examination

Name and location of school	Type	Dates attended	Class or Degree or Diploma
SHOW H INTERMEDIATE	Sec	1985	1985
AND SECONDARY	SCHOOL		

14. Name of child(ren)	Date of birth	Place of birth	Present address
Ahmed Khalif	1978	Somalia	Nairobi Kenya
Hussein "	1983	"	" "
Hawa "	1982	"	" "
Abdullahi "	1984	"	" "
Mohamud "	1987	"	" "
Mohamud "	1988	"	" "

If you mark (X) in front of name of each child who will accompany you to the United States.

Form I-590 (Rev. 6-1-86) N

12. Name of child(ren)	Date of birth	Place of birth	Present address
Ahmed Khalif	1979	Somalia	Nairobi Kenya
Hussein "	1981	"	USA - 1983

If you mark (X) in front of name of each child who will accompany you to the United States.

GOVERNMENT EXHIBIT 2-2 1:05CR163

15. List below all organizations, societies, clubs, and associations past or present, in which I have held membership, and the periods and places of such membership. (If you have never been a member of any organization, state "None") NONE

Chamber of Commerce

16. I ☐ have ☒ have not been charged with a violation of law. (If you have ever been charged with a violation of law, give date and place and nature of each charge and the final result) NONE

17. I ☒ have ☐ have not been in the United States. (If you have ever been in the United States, show the dates of entry and departure and the purpose of your entry: Visitor, permanent resident, student, seaman, etc.) 1993 N.Y. UNO- BOARD OF EXECUTIVES OF UNICEF, 1990 DA MEETING WASHINGTON D.C. File or Alien Registration number: MEMBER OF GOVT. DELEGATION IN BOTH CASES

18. I have the following close relatives in the United States:

Name	Relationship	Present address
INTISAR KHALIF FARAH	DAUGHTER	4400 ELAN CT ANNANDALE VA 22003

19. I am being sponsored by (Give name and address of United States Sponsor) USA CATHOLIC CONFERENCE USCC DIOCES OF ARLINGTON 316 B WAKE FIELD ST. ARLINGTON VA 22204 USA

Date	Signature of registrant
23 JUN 1993	

DO NOT WRITE BELOW THIS LINE

I, _____, do swear (affirm) that I know the contents of this registration subscribed by me including the attached documents, that the same are true to the best of my knowledge, and that corrections, numbered ( ) to ( ), were made by me or at my request, and that this registration was signed by me with my full, true name:

(Complete and true signature of registrant)

Subscribed and sworn to before me by the above-named registrant at NAIROBI, Kenya STANCE, Kenya on 7-22-93 (month)(day)(year)

(Signature and title of officer)

INTERVIEW

DATE 7-22-93

AT NAIROBI, Kenya

(Immigration officer)

APPROVED

DISTRICT DIRECTOR

DATE JUL 22 1993

Recommended by:

RIT | 6616

Officer in Charge

ADMITTED AS A REFUGEE PURSUANT TO SECTION 207 OF THE INA FOR AN INDEFINITE PERIOD OF TIME. IF YOU LEAVE THE U.S. YOU WILL NEED TO APPLY PERMISSION FROM INS TO RETURN.
EMPLOYMENT AUTHORIZED.

NYC DATE 9388 IMM OFFICER

INSTRUCTIONS

This form should be executed, signed and submitted to the Officer-in-Charge of the nearest overseas office of the United States Immigration and Naturalization Service. When your name has been reached as a registrant you will be furnished additional instructions.

1. REGISTRATION - A separate Registration Form must be executed by each registrant and submitted in one copy. A Registration Form in behalf of a child under 14 years of age shall be executed by the parent or guardian.

2. ASSURANCES - Assurance Form I-591 executed by a United States sponsor will be required before your refugee status may be authorized but need not be submitted at this time.

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REFUGEE APPLICATION WORKSHEET

APPLICANT: Khaliq Haji Farah FILE: A70-417-425

PRIORITY: 11/26/93 ACCOMPANYING FAMILY: +12 PLACE OF BIRTH: Somalia

DATE DEPARTED: 2/91 LAST RESIDENCE: Somalia

ARRIVAL IN KENYA: 3/91 RELIGION: Moslem

TRIBE/CLAN/SUBCLAN: Hawad POLITICAL GROUP:

INS OFFICER: TITLE:

SIGNATURE: DATE: JUL 22 1993

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INTERVIEW NOTES

Came direct from Somalia to Kenya. PA was deputy of the Chamber of Commerce. Claims Aidead people attack. PA's daughter is in the U.S. since 1983. PA claim his house was attacked by Aideeds forces on or about Nov 28, 1991. PA claims Raping and looting happened everynight, therefore, he moved his family to Kismayo, Reason he did not go with them is because he wanted to salvage some of his properties. PA State since he held a high position in the Government Aideeds people on 1/28/93 singled his out by first bombarding his house and then attacking his home. His brother & son-in-law were shot and killed at close range, PA was wounded by Rifle fire in his left and was presumed for dead. After this he observed his aunt who was also in her house being raped. The next day neighbors took PA out of the area. The remaining parts of the article is unknown

GOVERNMENT EXHIBIT 2-3 1:05CR163

CASE ANALYSIS

1. SUBJECTIVE FEAR: fear + future persecution

2. OBJECTIVE BASIS FOR FEAR: singled out

3. PERSECUTION GROUND:

RACE RELIGION NATIONALITY POLITICAL OPINION (SOCIAL GROUP)

4. CONCLUSION: (A) IS THERE PAST PERSECUTION? (YES) NO
(B) IS THERE A WELL FOUNDED FEAR OF FUTURE PERSECUTION? (YES) NO
(1) WAS THE APPLICANT SINGLED OUT? (YES) NO
(2) WAS THE APPLICANT IDENTIFIED WITH A SIMILARLY SITUATED GROUP? (YES) NO

5. IS THERE A CREDIBLE BASIS FOR CONCERN ABOUT THE POSSIBILITY OF PERSECUTION? (YES) NO

IF YES, CREDIBLE BASIS IS ESTABLISHED BY:

_____ ACTUAL PAST PERSECUTION

_____ ACTS OF PERSECUTION AGAINST SIMILARLY SITUATED INDIVIDUALS

_____ OTHER: _____

6. IS THE APPLICANT CREDIBLE: (YES) NO

IF NO: _____ THERE ARE INCONSISTENCIES BETWEEN THE WRITTEN AND ORAL TESTIMONY AS FOLLOWS:

_____ TESTIMONY IS NOT CONSISTENT WITH THE GENERAL INFORMATION KNOW ABOUT THE APPLICANT'S COUNTRY AS FOLLOWS:

_____ OTHER AS FOLLOWS:

THE CASE IS: APPROVED DENIED (REASON FOR DENIAL ON DENIAL LETTER IN THE FILE)

JUSTIFICATION

PA and his family were singled out and established past persecution and a well founded fear of future persecution.

This page is to be completed both front and back for each person age 17 and older.

Personal History

K KE 417-455

Interviewer CR | PAGE OF

Principal applicant

Name	Sex(M/F)	Birthdate	Birthplace	Relationship to PA
KHALIF HAGI FARAH	M	1930	1930 -	PA

OCCUPATIONS, WORK HISTORY AND EDUCATION:

			Location
	19	CIVIL SERVICE, WATER SECTOR, MAINLY General Manager MOGADISHU WATER AGENCY from 1976 - 1979	
		General Manager of WATER DEVELOPMENT Agency from 1979 to 1986, and Retired on 1-4-86	MOGADISHU Somalia
		Elected Member AND VICE CHAIRMAN - CHAMBER OF COMMERCE, 1989 - 1990	✓
		Small Business - Soyoon	
		SECONDARY SCHOOL: Completed 12th Gr	REASONS FOR LEAVING SCHOOL: SCONDRY WAS THE HIGHIEST School at that time
9		PRIMARY SCHOOL	

LANGUAGE ABILITY	Fluent	Good	Fair	Poor	OTHER	Fluent	Good	Fair	Poor
ENGLISH	✓				ARABIC	✓			
FRENCH					ITALIAN				✓

Can read: Hindi, Italian, Somali } Literate

FOR WOMEN: Are you pregnant? Yes — No — If pregnant, what month do you think the baby will be born? N/A

ETHNIC/RELIGION: MUSLIM / SOMALI / DAROD

1830

GOVERNMENT EXHIBIT 2-4 1:05CR163

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CASE REFERENCE No. FO: _____ COUNTRY ASYLUM: Kenya

HQs: _____ DATE OF ARRIVAL: 12th march 1991

UNHCR RESETTLEMENT REGISTRATION FORM

1. APPLICANT/HEAD OF FAMILY

A. FAMILY NAME: Mohamed[ka] B. GIVEN NAMES: Khalif Haji Farah.

C. OTHER NAMES: _____ D. MAIDEN NAME:* _____

E. PLACE OF BIRTH
COUNTRY: Somalia
LOCALITY/CITY: Burao

F. DATE OF BIRTH: ____ NOV. 1930 (DAY) (MONTH) (YEAR)

G. SEX:** (MALE) FEMALE

H. NATIONALITY: Somali
(OR IF STATELESS, COUNTRY OF FORMER HABITUAL RESIDENCE)

I. MARITAL STATUS:** SINGLE / ENGAGED / (MARRIED) DIVORCED / WIDOWED / SEPARATED / COMMON-LAW

J. NAME OF FATHER: Haji Farah Mohamed Ethiopia
NAME OF MOTHER: Fadumo Yasin Jama
FATHER:** ALIVE / (DEAD) MOTHER:** ALIVE / (DEAD)

K. ETHNIC/TRIBAL ORIGIN: Darod/Dhulbahante

L. RELIGION AND/OR SECT: Muslim

M. PRESENT ADDRESS: Nairobi, Kenya
TELEPHONE: _____

N. REFUGEE STATUS RECOGNISED BY:
COUNTRY OF ASYLUM ON: Jan 22. 1993
UNHCR ON: _____

2. IMMEDIATE FAMILY MEMBERS AND DEPENDANTS a) Living with Applicant

No.	NAME	RELATIONSHIP TO APPLICANT	PLACE OF BIRTH	DATE OF BIRTH	PLANNING TO RESETTLE WITH APPLICANT YES / NO
1.	Applicant	----------	-------	----	----------
2.	Hawo Hi. Ahmed.	wife.	Burao	2/5/1932	Yes
3.	Anisa Khalif Farah.	Dau.	Mogadishu	1/10/60	>>
4.	Hadunasir >> >>	Son.	>>	2/2/64	>>
5.	Abdukhaliq >> >>	>>	>>	17/2/70	>>
6.	Abdugafar >> >>	>>	>>	9/3/73	>>
7.	Abdu Halim >> >>	>>	>>	25/6/76	>>
8.	Sahrasad >> >>	Dau.	>>	12/7/78	>>
9.	~~Muna >> >>~~	~~Dau~~	>>	5/4/83	>>
10	Abdulatif >> >>	son	>>	11/4/82	>>
11	~~Mohamed >> >>~~	>>	>>	2/6/85	>>
12	Mohamud >> >>	>>	>>	29/7/85	>>
13	~~Mahad >> >>~~	>>	>>	11/6/89	>>

* If applicable
** Please circle as appropriate

GOVERNMENT EXHIBIT 2-6 1:05CR163

No.*	LANGUAGE	UNDERSTAND		SPEAK		READ		WRITE	
		easily	not easily	easily	not easily	easily	not easily	easily	not easily
1.	Somali, English, Arabic	✓		✓		✓		✓	
2	Somali	✓		✓			✓		✓
~~3-5~~	~~Somali English~~	~~✓~~		~~✓~~		~~✓~~		~~✓~~	
~~6-10~~	~~Somali~~	~~✓~~		~~✓~~		~~✓~~		~~✓~~	
11-13	Somali	✓		✓			✓		✓

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6. EMPLOYMENT RECORD IN COUNTRY OF ORIGIN AND COUNTRY OF ASYLUM OF APPLICANT AND ALL FAMILY MEMBERS/ DEPENDANTS OVER 15 YEARS OF AGE

No.*	NAME AND ADDRESS OF EMPLOYER	TYPE OF WORK	PERIOD FROM	PERIOD TO
1.	Water Dev. Agency Somalia.	General manager	1976	1986
	~~Afgadishu Water Agency~~	~~"~~ ~~"~~	~~1964~~	~~1976~~
	private business	Buisnessman.	1955	1963
2.	Has no Job.	—	—	—
3	private business.	—	~~1984~~	1990
4	Private business (export).	Business assistant	1983	1990
5-13	Had no Job.	—	—	—

7. TRAVEL AND/OR IDENTITY DOCUMENTS; DOCUMENTARY EVIDENCE OF REFUGEE STATUS

No.*	TYPE OF DOCUMENTATION	NUMBER	ISSUING AUTHORITY	VALID FROM	VALID TO
1.	Attestation.	HA 13/7/988	Ministry of Home affairs	13/9/91	present

8. COUNTRIES IN WHICH APPLICANT HAS STAYED, RESIDED OR TRANSITTED SINCE LEAVING COUNTRY OF ORIGIN

COUNTRY	PERIOD FROM	PERIOD TO	TRAVEL DOCUMENTS USED	REMARKS
Kenya	1991	present	Attestation from office of the president	permission ~~to stay in~~
			Ref. No. HA 13/6 Vol. III/161	Nairobi in ~~order to~~
			Date. 22nd Jan. 1993	~~as his~~ resettlement

* Use number 1 for Applicant and numbers 2 - 10 corresponding to the specific family member in item 2a

	TO APPLICANT	BIRTH	DIRTH	RESIDENCE

3. RELATIVES OR FRIENDS IN OTHER COUNTRIES (WITHIN AND/OR OUTSIDE CONTINENT OF PRESENT RESIDENCE)

NAME	RELATONSHIP TO APPLICANT	STATUS** (IF KNOWN)	ADDRESS/TELEPHONE	SINCE (YEAR)
Intisar Khalif H. Farah	Dau.	Resident Alien	4452 Elanct. Annandale, VA. 22003 Tel. 703-256-3507	Jan 1983

4. EDUCATION AND TRAINING OF APPLICANT AND FAMILY MEMBERS (IN COUNTRY OF ORIGIN AND COUNTRY OF ASYLUM)

No.***	NAME AND LOCATION OF SCHOOL OR TRAINING INSTITUTE	PERIOD FROM	PERIOD TO	DEGREES, DIPLOMAS, TRAINING CERTIFICATES/ SKILLS AND OTHER COMPETENCIES ACQUIRED
	Sheik Secondry School	1945	1954	Secondry Complete
2	NO formal education			
3	Benadir Second. Scho	1966	1978	Secondry Comp/ete
4	〃 〃	1990	1992	〃 〃
5	〃 〃	1976	1988	〃 〃
6	〃 〃	1979	1987	Standard 10
7	Kasa@apulare 〃	1982	1989	Standard 8
8	〃 〃 〃	1983	1990	Standard 7
9	〃 〃 〃	1988	1990	Stand 2
10	〃 〃 〃	1987	1990	Stand. 3.
11	Had no formal Education			
12	〃	〃	〃	〃 〃
13	〃	〃	〃	〃.

* Including immediate family members in other locations in country of present residence
** Status: i.e. refugee, citizen, asylum seeker, etc.
*** Use number 1 for Applicant and numbers 2 - 10 corresponding to the specific family member in Item 2a

	NAME	RELATIONSHIP TO APPLICANT		
1	Khalil Farah	S/A	Poor	Yes
2-13	Descendents		Normal	NO.

10. FOR FEMALE APPLICANTS ONLY (AND/OR FAMILY MEMBERS INDICATED IN ITEM 2a)

PREGNANCY:** YES / NO IF YES, GIVE NAME OF PERSON EXPECTING: N/A.

EXPECTED DATE OF DELIVERY: _____

ANY SPECIFIC PROBLEMS:** YES / NO

IF YES, SPECIFY: _____

11. PENAL RECORD

ARREST / DETENTION:** IF YES, SPECIFY:** CRIMINAL / POLITICAL

DETENTION/IMPRISONMENT PERIODS:

No.*	PLACE	PERIOD FROM	PERIOD TO	SENTENCED YES	SENTENCED NO	CHARGES

N/A

ADDITIONAL INFORMATION ON CONDITIONS OF DETENTION

* Use number 1 for applicant and numbers 2 - 10 corresponding to the specific family member in Item
** Please circle as appropriate

HABITUAL RESIDENCE AND REASONS WHY RESETTLEMENT REQUIRE

11. ADDITIONAL REMARKS: DESCRIPTION OF APPLICANT'S SITUATION, FAMILY RELATIONSHIPS, CHANGES IN MARITAL STATUS INCLUDING DATES AND SUPPORTING DOCUMENTATION AVAILABLE, AND ANY OTHER INFORMATION FOR RESETTLEMENT AUTHORITIES

Nairobi 8/03/93
PLACE AND DATE

SIGNATURE OF APPLICANT AND CERTIFICATION OF CORRECTNESS OF ABOVE DATA

Nairobi 8/03/93
PLACE AND DATE

SIGNATURE OF OTHER INTERVIEWER

IMPRISONMENT	NO
ESCAPE ATTEMPT	NO

ENGLISH										
FRENCH										

FOR WOMEN — Are you pregnant? Yes ____ No ____ If pregnant, what month do you think the baby will be born? ____

ETHNIC/RELIGION

ORGANIZATIONS

HARD LABOUR

IMPRISONMENT

ESCAPE ATTEMPT

1831

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JVA KENYA — BIODATA

(PRINT LEGIBLY)

CASE NO. ~~NG~~ 447 425
LOCATION NAIROBI
NATIONALITY SOMALI
ETHNIC DARODE
RELIGION MO

CASE WORKER
DATE OF INS. APPROVAL 07.22.93
PRIORITY P-3
NO. IN FAMILY 14 (FOURTEEN)

CROSS REFERENCE

	NAME	REL.	LOCATION
#			
#			

	SURNAME	GIVEN	MIDDLE	SEX	D&P O B MO. DAY YR.	REL.	OCCUPATION SKILLS	EDUC. # YRS.	LANGUAGE NATIVE	LANGUAGE ENGLISH	ALIEN NO.
1.	FARAH	KHALIF	HAGI	M	11.30.30 SO	PA	BUSINESS MAN	S	L DARODE	G	A70 417 423
2.	AHMED	HAWA	ALI	F	01.01.42 SO	WIFE	HOME MAKER	N	I DARODE	N	A70 417 424
3.	FARAH	ANISA	KHALIF	F	06.01.60 SO	DAUG-HTER	BUSINESS WOMAN	S	L DARODE	S	A70 417 425
4.	MOHAMED	YAASIN	ABDIKANI	M	02.01.79 SO	GRAND SON	STUDENT	P	L DARODE	S	A70 417 426
5.	FARAH	ABDINASIR	KHALIF	M	02.02.64 SO	SON	STUDENT	S	L DARODE	U	A70 417 429
6.	FARAH	ABDI	KHALIF	M	02.17.70 SO	SON	STUDENT	S	L DARODE	U	A70 417 430
7.	FARAH	ABDIQAFAR	KHALIF	M	03.09.73 SO	SON	STUDENT	S	L DARODE	U	A70 417 431
8.	FARAH	ABDIHALIM	KHALIF	M	06.25.76 SO	SON	STUDENT	P	L DARODE	U	A70 417 432
9.	FARAH	SAHRASAD	KHALIF	F	07.12.78 SO	DAUG-HTER	STUDENT	P	L DARODE	U	A70 417 433
10.	FARAH	ABDILADIF	KHALIF	M	04.11.82 SO	SON	STUDENT	P	S DARODE	U	A70 417 434
11.	FARAH	MUNA	KHALIF	F	04.05.83 SO	DAUG HTER	STUDENT	P	S DARODE	U	A70 417 435
12.	FARAH	MOHAMED	KHALIF	M	02.06.85 SO	SON	STUDENT	K	I DARODE	N	A70 417 436
13.	FARAH	MAHMUD	KHALIF	M	07.29.88 SO	SON	STUDENT	K	I DARODE	N	A70 417 437

1) RELATIVE OR FRIEND IN THE USA:
NAME: INTISAR KHALIF FARAH
RELATIONSHIP: DAUGHTER
ADDRESS: 4452 TLAN CT
CITY ANNANDALE STATE VA ZIP 22003
TEL (703) 256-3601 (H)

HEALTH: PA has hypertension, diabetes, hepatitis, and duodenal ulcers.
PREGNANCY:

PA FATHER: HAGI FARAH

COMMENTS: # 4 is the SON of #1 Father DECEASED
#5 has Polio
UNHCR MEDICAL REFERRAL

23 JUL 1997

1832

GOVERNMENT EXHIBIT 2-5 1:05CR163

34a

- BIODATA (PRINT LEGIBLY)

417 425

CASE WORKER

DATE OF INS. APPROVAL

PRIORITY P-

NO. IN FAMILY

CROSS REFERENCE

#	NAME	REL.	LOCATION
#			

	ANAME	GIVEN	MIDDLE	SEX	D & P.O.B MO.	DAY	YR.	REL.	OCCUPATION SKILLS	EDUC. # YRS.	LANGUAGE NATIVE	ENGLISH	ALIEN NO.
1.	FARAH	MAHAD	KHALIF	M	06.	11.	89	SON	NONE	N	I DAROD	N	A70 417 438
2.													
3.													
4.													
5.													
6.													
7.													
8.													
9.													
10.													
11.													
12.													
13.													

1) RELATIVE OR FRIEND IN THE USA:

NAME

RELATIONSHIP

ADDRESS

CITY STATE ZIP

TEL

HEALTH:

PREGNANCY:

COMMENTS:

PA FATHER

23 JUL 1993

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